

**IN THE UNITED STATE DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

INTELLECTUAL TECH LLC,
Plaintiff,

v.

ZEBRA TECHNOLOGIES CORPORATION,

Defendant.

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Civil Action No. 6:19-cv-00628

JURY TRIAL DEMANDED


**ORDER DENYING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

Before the Court is Zebra's Motion for Summary Judgment of Invalidity Under 35 U.S.C. § 112 [Dkt. 54]. This Court previously denied Zebra's Motion for Summary Judgment of Invalidity for indefiniteness. After careful consideration of the relevant issues and the Parties' respective positions, the Court also denies Defendant's Motion for Summary Judgment of Invalidity for lack of written description.

Under 35 U.S.C. § 282, a patent is presumed valid. In moving for summary judgment, Zebra thus has the burden of establishing by clear and convincing evidence that the '247 Patent fails to comply with the written description requirement. *Hynix Semiconductor Inc. v. Rambus Inc.*, 645 F.3d 1336, 1351 (Fed. Cir. 2011); *Intirtool, Ltd. v. Texar Corp.*, 369 F.3d 1289, 1294 (Fed. Cir. 2004). To do so, Zebra must show that the disclosure of the '247 Patent does not "reasonably convey[] to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date." *Ariad Pharm., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010). The question is one of fact. *Centrak, Inc. v. Sonitor Techs., Inc.*, 915 F.3d 1360, 1365 (Fed. Cir. 2019). And the facts here must be read in the light most favorable to the non-movant, Intellectual Tech. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). In so reading the facts before it, the Court finds that Zebra has failed to meet its high burden.

Accordingly, Zebra's Motion for Summary Judgment of Invalidity is hereby wholly **DENIED**.

It is SO ORDERED this 22nd day of January, 2021.


The Honorable Alan D Albright
United States District Judge